

ORIGINAL

HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON

JOHN B. RUDOLPH*
JOSEPH R. MEMBRINO*
DONALD R. DINAN*
JOHN J. McDERMOTT*
JAMES B. WILCOX, JR.*
RAIG A. KOENIGS*
JOHN J. CALLAHAN*
SANDEEP KATHUKIA*

TULSA, OKLAHOMA
JAMES C. T. HARDWICK
THOMAS D. GABLE
THOMAS F. GOLDEN
LARRY W. SANDEL
ANDREW M. WOLOV
FRANK M. HAGEDORN
J. PATRICK CREMIN
J. KEVIN HAYES
MICHAEL D. GRAVES
JAMES D. SATROM
RICHARD A. GROFNENDYKE, JR.
GRAYDON D. LUTHEY, JR.
DELL L. GUSTAFSON

OF COUNSEL
JOHN S. ESTILL, JR.
WILLIAM W. PRITCHARD
DAVID J. HILL*
MARY JOHNSON TIDHOLM
RAYMOND B. KELLY
AUDREY P. RASMUSSEN*
CLIVE A. SEYMOUR
JANE L. ALLINGHAM

MARK K. BLONGEWICZ
MICHAEL D. COOKE
KENNETH L. HUNT
B. KENNETH COX, JR.
DONALD L. KAHL
D. KENYON WILLIAMS, JR.
THOMAS P. SCHROEDTER
JAMES J. PROSZEK
JAMES M. REED
THOMAS A. CREEKMORE III
STEPHEN W. RAY
MARGARET A. SWIMMER
MICHAEL T. KEESTER
SUSAN L. GATES
RONALD O. RAY, JR.
KENNETH G. M. MATHER
RONALD A. WHITE
FRED M. BUXTON
STEVEN A. BROUSSARD
STEVEN W. SOULE*
MICHAEL L. NEMEC
JOSEPH D. FINCHER
ANGELYN L. DALE

TULSA, OKLAHOMA OFFICE
320 SOUTH BOSTON AVENUE
SUITE 400
TULSA, OK 74103-3708
TELEPHONE (918) 594-0400
FACSIMILE (918) 594-0505

A PROFESSIONAL CORPORATION

1120 20TH STREET, N.W.
SUITE 700, NORTH BUILDING
WASHINGTON, D.C.
20036-3406

TELEPHONE (202) 973-1200
FACSIMILE (202) 973-1212

<http://www.hallestill.com>

OKLAHOMA CITY, OKLAHOMA OFFICE

100 NORTH BROADWAY
BANK ONE CENTER, SUITE 2900
OKLAHOMA CITY, OK 73102-8865
TELEPHONE (405) 553-2828
FACSIMILE (405) 553-2855

NORTHWEST ARKANSAS OFFICE

ONE EAST CENTER STREET
SUITE 315
FAYETTEVILLE, AR 72701-5388
TELEPHONE: (501) 973-5200
FACSIMILE: (501) 973-0520

R. MARK PETRICH
PAMELA H. GOLDBERG
MARK BANNER
ROBERT F. DOUGHERTY
T. LANE WILSON
BETSY G. JACKSON
ROBERT P. FITZPATRICK
SARAH JANE MCKINNEY
LESLIE C. KNEESHAW
JOHN F. HEIL, III
MARSHALL J. WELLS
HEATHER L. CUPP
ANTHONY J. JORGENSEN
HEATHER R. CASE
KYLE D. FREEMAN
T. GENE MONROE, II
MONICA L. GOODMAN
W. DEKE CANADA
MICHAEL J. LISSAU
BONNIE N. HEFNER
JANICE L. GADDIS
KIMBERLY R. BIEDLER
KERI G. WILLIAMS

DAVID J. SCHAFER
JONATHAN D. CARTLEDGE
JOHN J. TREBILCOCK

NORTHWEST ARKANSAS
CURTIS HOGUE
JAMES L. HARRIS

OKLAHOMA CITY, OKLAHOMA
H.B. WATSON, JR.
ROBERT D. NELSON
J. FRED GIST
MICHAEL E. SMITH
RALPH E. SEALS, JR.
DONNA N. BLAKLEY
RODNEY C. RAMSEY
SHARON T. THOMAS
DANIEL J. GLOVER
KENT A. GILLILAND
JON A. EPSTEIN
ELAINE R. TURNER
SUSANNA G. VOEGELI
J. TODD WOOLERY
*ADMITTED IN D.C.

WALTER B. HALL (1923-1986)
FRED S. NELSON (1928-1987)

June 26, 2002

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JUN 26 2002

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Audrey P. Rasmussen
(202) 973-1210
arasmussen@hallestill.com

Marlene H. Dortch
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: Request for Waiver by Tracy Corporation II on Implementation
of TTY Digital Compatibility for 911 Emergency Calling for
Station KNLF407, CC Docket No. 94-102

Dear Ms. Dortch:

On behalf of Tracy Corporation II ("Tracy"), and pursuant to the Fourth Report and Order, CC Docket No. 94-102, 15 FCC Rcd 25216 (2002) and Section 1.925(b)(3) of the Commission's Rules, we hereby request a waiver of implementation of TTY digital compatibility for 911 emergency calling for Personal Communications Service ("PCS") Station KNLF407 ("Request"). Tracy operates its facilities in a rural market in Nebraska/Wyoming (BTA411).

Introduction

Tracy employs GSM technology in its PCS operation. It has been informed by its vendors that solutions to meet the June 30, 2002 deadline for implementation of TTY digital compatibility for 911 emergency calling in the referenced market are not yet available to it. Since Tracy is completely reliant upon its vendors to implement the TTY solution in its software, handsets and network, it must request an extension of time.

Tracy Requires a Waiver Request

Although Tracy understands the public safety importance of ensuring 911 access by persons with hearing and speech disabilities using TTY devices, its present circumstances warrant a waiver and an extension of the June 30, 2002 deadline.

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Tracy is working with its switch and its infrastructure manufacturers, both of whom are aware of TTY requirements. In addition, Tracy's software compliance is under evaluation at this time. Tracy understands that its vendor is in the process of implementing a software solution and Tracy is awaiting software and hardware availability from switching, infrastructure and handset vendors.

Tracy is also working with handset manufacturers to provide a solution for deployment in its network by the June 30, 2002 date set by the FCC. However, Tracy is presently dependent not only upon a solution being made available by manufacturers of PCS handsets by the FCC mandated deadline, but also in being able to have the handsets timely delivered from the manufacturers. It appears now that the handsets will not be available to it by the deadline.

Tracy will begin testing TTY compatible equipment as soon as solutions are provided by network infrastructure and handset vendors; however, it remains dependent upon vendor provided solutions to meet the FCC's mandated timeline to provide 911 TTY access to its network. Tracy has contacted its vendors seeking to obtain the date of availability for its software and hardware and has determined that its vendors' solutions are not expected to be available by the end of June 2002.

In view of the unique and unusual factual circumstances presented by Tracy, it would be inequitable, unduly burdensome and contrary to the public interest to require Tracy, a small, rural carrier, to meet the June 30, 2002 deadline without adequate support from its vendors. Accordingly, the Commission should grant this waiver request.

Waivers are appropriate whenever circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.¹ Section 1.925(b)(3) of the Commission's Rules explains that a waiver of the Commission's Rules with respect to public mobile services is appropriate whenever a party demonstrates either (1) that the underlying purpose of the rule would not be served or would be frustrated by its application to the instant case, and that grant of a waiver would be in the public interest; or (2) in view of unique or unusual factual circumstances in the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.²

Tracy submits that its Request satisfies the Commission's waiver standard set forth above. In this instance, unique and unusual circumstances exist, in the lack of available TTY solutions by Tracy's vendors.

¹ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

² 47 C.F.R. §1.925(b)(3).

Marlene H. Dortch
Secretary
June 26, 2002
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If there are any questions regarding this Request, please address them to the undersigned.

Very truly yours,



Audrey P. Rasmussen

APR:gln

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DECLARATION

I, Michael J. Tracy, under penalty of perjury, do hereby state the following.

1. I am President of Tracy Corporation II.
2. The facts stated in the attached **REQUEST FOR WAIVER BY TRACY CORPORATION II ON IMPLEMENTATION OF TTY DIGITAL COMPATIBILITY FOR 911 EMERGENCY CALLING FOR STATION KNLF407, CC DOCKET NO. 94-102** are true and correct to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read "Michael J. Tracy", with a stylized flourish at the end.

Michael J. Tracy

Dated: June 26, 2002